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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY: _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KONDAUR CAPITAL
CORPORATION,

Plaintiff,

vs.

DIEADRA McDOWELL,

Defendant.

Case No. ED CV 12-1154-UA (DUTYx)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because defendant removed it improperly.

On July 11, 2012, defendant Dieadra McDowell, having been sued in what appears to be a routine unlawful detainer action in California Superior Court, lodged a Notice Of Removal of that action to this Court, and also presented an application to proceed in forma pauperis. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

First, although defendant asserts diversity jurisdiction, because the amount in controversy does not exceed \$75,000 and there is no factual basis for her

1 allegation of diversity of citizenship, there is no basis to assert diversity
2 jurisdiction. *See* 28 U.S.C. §§ 1332, 1441. And second, defendant's assertion of
3 removal jurisdiction under 28 U.S.C. § 1443 is baseless, as she has not satisfied
4 either prong of the two-part test required for removal under § 1443(1). *See Patel*
5 *v. Del Taco, Inc.*, 446 F.3d 996, 999 (9th Cir. 2006). As described in more detail
6 in the Order Denying Defendant's Request to Proceed Without Prepayment of
7 Filing Fee, the Notice of Removal fails to assert, as a defense to the unlawful
8 detainer action, a statutory right for the protection of racial equality, and also fails
9 to point to any state statute or constitutional provision that commands the state
10 courts to ignore such federal right.

11 Accordingly, IT IS ORDERED that: (1) this matter be REMANDED to the
12 Superior Court of California, Riverside County, 13800 Heacock Street, Building D
13 #201, Moreno Valley, CA 92553, for lack of subject matter jurisdiction pursuant
14 to 28 U.S.C. § 1447(c); (2) that the Clerk send a certified copy of this Order to the
15 state court; and (3) that the Clerk serve copies of this Order on the parties.

16
17
18 DATED: _____

7/17/2012

A. Collins

HONORABLE AUDREY B. COLLINS
CHIEF UNITED STATES DISTRICT JUDGE